

CITY OF ROSENBERG

CITY COUNCIL SPECIAL MEETING MINUTES

On this the 22nd day of May, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Christine Krahn	Acting City Secretary
George Hyde	Attorney for the City
John Maresh	Assistant City Manager for Public Services
Joyce Vasut	Executive Director of Administrative Services
Jeff Trinker	Executive Director of Support Services
Wade Goates	Fire Chief
Randall Malik	Economic Development Director
Rachelle Kanak	Assistant Economic Development Director
Angela Fritz	Communications Director
Kaye Supak	Executive Assistant

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 7:10 p.m.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

The following speakers addressed Council regarding Item 1 and in support of the "One Way Pairs Project":

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| • Shanta Kuhl | President, Central Fort Bend Chamber
515 Olive Street, Wharton, Texas |
| • Bob Vogelsang | 1208 Second Street, Rosenberg |
| • Marcia Vogelsang | 1208 Second Street, Rosenberg |
| • Lupe Uresti | 2700 Cambridge Circle, Rosenberg |
| • Juan Salazar | 1405 Wilson Drive, Rosenberg |

The following speakers addressed Council in objection of the "One Way Pairs Project":

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| • Annie Rivera | 1121 Mulcahy Street, Rosenberg, Texas |
| • Karin Day | 1308 Brazos Street, Rosenberg |
| • Kathy Hynson | 1200 Brazos Street, Rosenberg |
| • John Wilcox | 1214 Austin Street, Rosenberg |
| • Glynn Johnson | 1102 Timberlane Drive, Rosenberg |
| • Carolyn Seiler | 2625 Cedar Lane, Rosenberg |

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| • Elaine Kresta | 1018 Lindsey, Rosenberg |
| • Terry Turner | 4625 Greenwood, Rosenberg |
| • Ben Brink | 1833 Old Creek Drive, Rosenberg |

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

AGENDA

The following speakers addressed Council regarding Item 1 in support of the "One Way Pairs Project":

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| • Bob Ray | 719 Perry, Rosenberg |
| • Pete Pavlosky | 610 Wilburn, Rosenberg |
| • Renee Butler | 1100 George Street, Rosenberg |
| • Brandon Campbell | 110 George Street, Rosenberg |
| • Janice Vyoral | 1900 Avenue G, Rosenberg |
| • Jeff Messer | 1206 Windover Court, Sugar Land |
| • Mike Parsons | 2635 Sequoia, Rosenberg |

The following speakers addressed Council in objection to the "One Way Pairs Project":

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| • Mary Lee | 2626 Avenue G, Rosenberg |
| • Inez Garcia | 1418 Carlisle Street, Rosenberg |
| • Bobby McKinney | 2314 Jones, Rosenberg |

1. RECEIVE PRESENTATION REGARDING THE ONE WAY PAIRS PROJECT FROM FORT BEND COUNTY AND TEXAS DEPARTMENT OF TRANSPORTATION OFFICIALS, AND TAKE ANY ACTION AS NECESSARY.

Executive Summary: This item has been included on the agenda to receive a presentation and information regarding the One Way Pairs Project from Fort Bend County and the Texas Department of Transportation.

Speaker for the item:

- Roy Cordes, Fort Bend County Attorney gave a brief highlight of the agreement that Fort Bend County Commissioners Court entered into with the Texas Department of Transportation (TxDOT) for this project.
- It is an agreement to contribute funds for right of way and utility relocation. Once this agreement calls for TxDOT to undertake the acquisition of right of way to study it they will take the lead in acquiring the right of way and utility relocation. The anticipated cost in the agreement for the right of way acquisition and utility relocation is \$5 million dollars. Fort Bend County has agreed to fund ten percent (10%) of it. It is a standard 90/10 advanced funding agreement. The County will contribute as approved by Commissioners Court, the sum of \$500,000 to TxDOT for this project.

Questions/Comments:

- Councilor Benton stated the purpose of this meeting was to hear and discuss the petition not to hear from the County and TxDOT.
- Councilor McConathy thanked Roy Cordes for being at the meeting. There were a lot of people that did not understand the agreement between the County and TxDOT being specifically right of way and utility relocation and the specific amount addressed.

Speaker for the item:

- Jeff Balk, Area Manager of TxDOT gave a brief update on where TxDOT is at on the One Way Pairs Project. Plan sets have been completed and reviewed in-house in the Houston District. The specifications and estimates are put together with the plan sets and they are on the way to Austin for further processing. There is an environmental assessment and environmental clearance they are waiting on. They anticipate getting that clearance in September. Once the clearance is received TxDOT will be able to let the contract and send the right of way agents out to acquire the parcels needed. At this time, TxDOT is set for an October letting. Once the project is let, the

contractor will sign a work authorization that will be processed in Austin and with that work authorization TxDOT will receive the notice to proceed which normally comes two months after letting. The construction timeframe will be towards the end of the year.

Questions/Comments:

- Councilor McConathy stated with the various dates mentioned, TxDOT will proceed, right.
- Jeff Balk stated yes. He reviewed the process saying if they cannot get fair market value for the parcels the next step is to go into condemnation. This TxDOT project is on the website and it has been approved to be let in July. TxDOT will move that back due to getting the environmental clearances.
- Councilor McConathy stated the only "hiccup" at this time is the environmental clearance. If that did not get approved that would be a severe impact on the One Way Pairs Project.
- Jeff Balk stated yes.
- Councilor Benton stated the project dates have been changed many times. He does not know if we will be able to stop the project. He asked how the condemnation process takes place and does that involve a lawsuit.
- Jeff Balk stated he is the Fort Bend Area Engineer and he takes the projects from letting and sees it through construction. He is not a right of way expert.
- Councilor Benton showed a PowerPoint with crash analysis that came from TxDOT and pointed out the crash rate numbers. He is not convinced that the area being proposed is unsafe. Various examples of relief for congestion in the area were provided by speakers this evening. He feels there are other alternatives.
- Councilor Grigar asked if this is out of the norm for this to happen with a project like this in any city in Texas like the 90/10% contribution and with the city being involved with an agreement.
- Jeff Balk stated no.
- Councilor Pena stated there has been a public outcry on this and everyone he has talked to is against it. We are a small town and we don't vote. On average 1,000 people vote in Rosenberg. TxDOT and Commissioners Court is not scared of you because you don't come out and vote and flex your muscle. We are all taxpayers and have a great interest in what happens in the city. The outcry is that they don't want the change. TxDOT should take some note to what the people are saying.
- Councilor Euton referenced the crash data chart that was shown and asked if that is the way you normally compare the roads to other roads by the crash rate. How is that compared to find the safety issues? It appears to be raw data and she does not think that is how it is compared.
- Jeff Balk reiterated that he is not a traffic engineer and cannot answer that.
- Mayor Morales summarized that TxDOT has an agreement with the County at this point and the project is in Austin and Jeff Balk has been instructed that the project will go forward.
- Jeff Balk stated yes.

2. **RECESS OPEN SESSION AND ADJOURN INTO EXECUTIVE SESSION PURSUANT TO SECTIONS 551.071 (ADVICE OF ATTORNEY) AND 551.072 (DELIBERATION REGARDING REAL PROPERTY) TO SEEK LEGAL ADVICE FROM THE CITY'S ATTORNEYS REGARDING THE ONE WAY PAIRS PROJECT AND TO DELIBERATE UPON REAL PROPERTY MATTERS INCLUDING THE POTENTIAL PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY THAT, IF CONDUCTED IN PUBLIC SESSION WOULD INTERFERE WITH THE CITY'S BEST INTERESTS IN ACQUISITION OR SALE OF REAL PROPERTY.**

- Mayor Morales asked George Hyde, legal counsel if Council should vote to recess.
- George Hyde, Denton Navarro Rocha Bernal Hyde & Zech, P.C., stated he would like to recess and speak to Council in whole and then when resumed Council will be able to decide whether they would like discussion in open session or not.

Action: Councilor McConathy made a motion, seconded by Councilor Euton to adjourn into Executive Session pursuant to Sections 551.071 (Advice of Attorney) and 551.072 (Deliberation regarding Real Property) to seek legal advice from the City's attorneys regarding the One Way Pairs Project and to deliberate upon real property matters including the potential purchase, exchange, lease, or value of real property that, if conducted in public session would interfere with the City's best interests in acquisition or sale of real property. *The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor Morales, Councilors McConathy, Pena, Euton, Grigar and Bolf. No: Councilor Benton.*

Questions/Comments:

- Bill Hartmann, Fort Bend Herald Newspaper, asked to be heard on the closed meeting aspect.
- George Hyde stated the agenda does allow for specific items so it is up to the Mayor's discretion if you would like to have public comment on this item but you have taken a vote and the motion has passed.
- Mayor Morales allowed Bill Hartmann to speak.
- Bill Hartmann, Fort Bend Herald Newspaper objected to the closure of this meeting.
- George Hyde stated he has a duty as a matter of law to speak with his client in confidential settings unless that issue is waived. At this point, he can't advise Council with regards to whether Council wants to waive that until Council knows what he would say so they can make a known and intelligent choice. That is why he has requested that Council go into Executive Session so he can advise his client as to their rights in confidential setting pursuant to Section 503 of the Texas Rules of Evidence which is a matter of law confidentiality requirement for him as an attorney to speak to his client. That is the exception.
- Bill Hartmann continued to object to the closure of the meeting.
- Mayor Morales asked George Hyde if Council wants to waive that do they need to waive that option as far as client attorney privilege.
- George Hyde stated no Your Honor. The issue before the Council at this time is an issue in which he has a duty as the lawyer to discuss issues with his client, the governing body, in a confidential setting which as an exception of the act under Subsection 2 of .071 in which was not stated by the speaker. At this point, he believes that an engagement of a public comment that is now interacting with regards to asking for action of the Council is inappropriate under a public comment section. The City Council has voted to go into Executive Session. Once they understand their rights and risks and legal affect of their decision as to whether or not they would like to have public comment then they can come out and have that public comment. At this point, Mr. Mayor, I ask that the Council move forward with regard to the Executive Session so I can advise them of their legal rights.
- Mayor Morales stated we have a motion to go into Executive Session so we will go into Executive Session to hear what our rights are and we will be back out as soon as possible and then we will continue on with our agenda.

3. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO OPEN SESSION, AND TAKE ACTION ANY NECESSARY ACTION ON ITEM 1, INCLUDING ACTION TO AUTHORIZE A LIMITED WAIVER OF THE ATTORNEY CLIENT PRIVILEGE TO PERMIT LEGAL ADVICE TO BE PRESENTED IN OPEN SESSION.**

Mayor Morales adjourned the Executive Session and reconvened into Open Session at 9:30 p.m.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to waive the attorney client privilege to permit legal advice to be presented in Open Session regarding the condemnation of real property regarding the One Way Pairs Project. The motion carried by a unanimous vote.

Comments:

- George Hyde explained that Council has asked him to share with the public the condemnation process that is allowed under state law when two government entities may be involved in the same piece of property.
- First the Transportation Code provides for a process by where the state or county government can condemn municipal property. The provision says that there is consent that is necessary in order to complete that. Legal precedent in Houston Court of Appeals demonstrates that that consent can be determined based on past conduct of the municipality. In this case in particular for the City of Rosenberg – since 2005 there have been numerous resolutions and actions by the City that was in support of the pairs project which would likely be used by the state or county government in some type of dispute to demonstrate consent.
- The legal terminology this involves is a term called estoppel. What that means is that if you have presented and relied on information that later on someone can't pull the rug out from under you. They can't change it after you have done things in reliance on those issues. And here that estoppels issue is what the court of appeals found important but says that once you have conducted yourself in a way that other governmental entities have relied the consent is determined. That your consent is shown by your own action since 2005 with the resolutions he

has seen. Therefore, the Transportation Code provision with regard to consent would be that for the state or county government to condemn the property.

- The second step with regards to property that is being used for public purpose is a term called the Paramount Public Purpose Doctrine. What that doctrine says is the governments to decide to fight over a piece of property, what it should be used for and how it should provide purpose to the public. Under the Paramount Public Purpose Doctrine, basically the best highest used purpose wins. Right now under the facts of this case, there is only one purpose that has been presented and that purpose is for this highway improvement project. He is not aware of the City having another purpose for the property that has been required that would meet the requirements under the Paramount Public Purpose Doctrine to support a method by which to stop a condemnation under the Paramount Public Purpose theory.
- Senate Bill 18 rewrote Chapter 21 of the Texas Property Code which is the condemnation process in Texas. That condemnation process generally states that if a governmental entity seeks to acquire property by condemnation they first have to enter into negotiations and provide an appraisal and a good faith market value offer for the property. Once they have completed that typically it requires a condemnation appraisal to be conducted and a fair price being done by an independent third party and that is presented to the property owner, here the City of Rosenberg.
- Once you've obtained that you go into good faith negotiations with regard to what the value of the property is to be acquired and if you can agree to that amount then the property is transferred through a normal process. If you can't agree to that amount, then the condemner the state or county government in this case, would file a petition for condemnation with the district court and the district court would appoint three county freeholders that would become special commissioners that would sit in a proceeding where the value of the property will be determined. Those three people are appointed by the district judge in his discretion and then those three persons determine the value that the City of Rosenberg would receive from the property. In that preceding the City can present its own value judgment but the issue before the commissioners is not whether the property ultimately gets condemned and used for that purpose. It is only how much money is the property worth when it is acquired by the other government.
- That process would then result in a commissioners determination which is then approved by the district court and once approved by the district court, the funds allocated in that case have to be deposited in the registry of the court and at that time based by judicial order the property is transferred in title and writ to the condemner, here the county or state. The minute they put that money in the registry of the court it becomes their property and they can move dirt and start anything the minute after that is filed. That is condemnation proceeding. There is not information at this point as to how the city under that condemnation process would be able to stop the project itself but there will be methods by which the cost of consultants, appraisals, experts, litigation to continue to debate over either the value of the property and the process and ultimately acquiring the condemnation authority.
- If there is a defect in the condemnation process that can be litigated through the courts all the way to the Texas Supreme Court but that doesn't change whether they started to use the process but it can void the condemnation and have to start the process over. But, once they are turning dirt that part is final.
- City Council asked that this information be provided to you so the public would understand and have the transparency of the legal processes associated with the condemnation. Whether or not the City agrees or disagrees in the Resolution to participate or not allow the property to be sold under the Resolution's terms.

The following speakers addressed Council regarding Item 4 in support of the "One Way Pairs Project":

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| • Mike Mercado | 1919 Avenue G, Rosenberg |
| • Joe Vera | 1460 6 th Street, Rosenberg |
| • Liz Stegint | 39905 Boothill Road, Simonton |
| • Maria Dixon | 16414 Ember Hollow, Sugar Land |
| • Diana Miller | 2205 Avenue I, Rosenberg |
| • Kathy Golden | 2205 Avenue I, Rosenberg |
| • Sandra Macik | 828 3 rd Street, Rosenberg |
| • Alicia Casias | 1236 Louise Street, Rosenberg |
| • Tom Suter | 1102 Elizabeth, Rosenberg |

The following speakers addressed Council in objection to the "One Way Pairs Project":

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| • Barbara Dittfurth | 2726 Chupik Street, Rosenberg |
| • Sergio Villagomez | 1119 5 th Street, Rosenberg |
| • Heber Castillo | 1919 Cardinal Drive, Rosenberg |
| • Howard Stinnett | 2926 Pisces, Richmond |
| • Maria Comacho | 1802 Klauke, Rosenberg |
| • Jose Comacho | 1802 Klauke, Rosenberg |
| • Samuel Carlisi | 1119 Lark, Rosenberg |
| • Fran Naylor | 1424 Callender, Rosenberg |
| • Helen Lev | 2009 Ward, Rosenberg |
| • Herb Phalen | 1400 Carlisle Street, Rosenberg |
| • Adolph Sebesta | 1116 Tobola Street, Rosenberg |
| • Robb Gaston | 1513 Frost, Rosenberg |
| • Karen Roop | 1603 Brumbelow Street, Rosenberg |
| • Joe Valdez | 1307 Crescent Water, Rosenberg |
| • Dr. Allwright | Avenue I, Rosenberg |

4. **CONSIDERATION OF AND ACTION ON A PETITION, AS RECEIVED BY THE CITY SECRETARY'S OFFICE ON MAY 12, 2014, REGARDING THE OPPOSITION OF THE CONVERSION OF ANY PORTION OF AVENUE H AND AVENUE I TO ONE-WAY STREETS, THE PURCHASE OF ADDITIONAL REAL ESTATE, AS WELL AS THE TRANSFER, SALE, LEASE, RENT, EXCHANGE OR CONVEYANCE IN ANY WAY TO ANY PERSON, CORPORATION OR ENTITY INCLUDING TXDOT OR FORT BEND COUNTY, THE REAL PROPERTY OWNED BY THE CITY OF ROSENBERG, AND LOCATED IN ROSENBERG, TX BETWEEN AVENUE H AND AVENUE I, AND DAMON AND LOUISE STREETS, FOR THE ROADWAY PROJECT KNOWN AS THE "ONE WAY PAIRS PROJECT", WITHOUT PRIOR APPROVAL BY ROSENBERG VOTERS.**

Executive Summary: The City Secretary received a Petition addressed to the City of Rosenberg Mayor, City Council, and Rosenberg City Secretary on Monday, May 12, 2014, as follows:

"It is the preference of the petition organizers that the City of Rosenberg and Rosenberg City Council adopt the language proposed in the presented petition without having a "Special Election". It is also our desire that a resolution be adopted by the Council opposing conversion of Avenue H and Avenue I to "One Way Pairs" be presented to TXDOT, our State Legislators, and other elected officials, to notify them that the city opposes the conversion of Avenue H and Avenue I to one way streets, as well as being opposed to conveying the referenced city owned property to any person or entity for the purpose of the One Way Pairs project."

The Initiative Petition presented was comprised of 73 pages of signatures (with approximately 665 total signatures) entitled "Initiative Petition" which reads as follows:

"To the Mayor and City Council of the City of Rosenberg, Texas—

We, the undersigned voters of the City of Rosenberg, Texas, pursuant to section 7.02 of the Home Rule Charter for the City of Rosenberg, Texas, hereby petition Rosenberg City Council to pass and adopt such resolution as stated below, without alteration as to the meaning or effect in the opinion of the persons filing the petition, or to call a special election.

Initiated Resolution: "The City of Rosenberg opposes the converting of any portion of Avenue H and Avenue I to one way streets, the purchase of additional real estate, as well as the transfer, sale, lease, rent, exchange or conveyance in any way to any person, corporation or entity including TXDOT or Fort Bend County, the real property owned by the City of Rosenberg, and located in Rosenberg, TX between Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One Way Pairs Project", without prior approval by Rosenberg voters."

This item has been added to the agenda to accommodate discussion regarding said Petition.

Key discussion points:

- Councilor Benton thanked the Chamber for their efforts. Several folks have gone through condemnation and they understand there is a process. We are talking about existing, functional roads. We don't have the need to condemn property like at Spur 10. It is obvious the majority present do not want this project. Let your legislators and all those involved know.

- He pointed out that he mentioned to Robert Gracia that several items be removed from this agenda prior to this meeting except the item that specifically dealt with the petition. He thinks they have sent a message to us that the majority do not want this project and that we do what we can to resist it.
- Councilor McConathy commented the specific item is to validate or invalidate the petition. It is incumbent on this Council regarding the validity of this petition. There are some duplicate signatures but she wants to go on record that she supports the validity of this petition.
- Councilor Bolf stated when this started ten years ago it might have looked like a great thing. She likes Avenue H and the downtown area and she wants it to grow with good mobility. She does not think the one way streets will do that. There is a lot she would like to see happen downtown. She stated that someone may be against the one way pairs and that we don't care about that is an unfair statement. She feels TxDOT has been negligent to the City when they did Spur 10 between US 59 and Highway 36 because signage was suppose to be put out. She asked them this year about it and it was their responsibility she has never received a response from TxDOT. If that had been done a lot of the traffic would have been decreased 50% with the truck traffic. Some people don't care one way or the other. Not knowing does not mean you don't care. That is the responsibility of the City and the citizens to get all the facts. We have got to get citizens to come out and get involved. With this election and the statements today she will support this petition. She thinks the County and TxDOT need to listen to this petition. She concurs with Councilor McConathy that the petition is valid.
- Councilor Grigar stated this is a tough road. He knows most people in the audience and he hopes we will still all be friends and live in peace and harmony. Hopefully the City can come back together. He has a problem with the petition. There are several duplicate signatures, some that signed the bottom swearing these signatures are here. There was one that signed the top of the page and he feels that whole page should be removed. It's about the one way but TxDOT has control of that.
- Councilor Pena stated we are dealing with the public outcry and the petition is one part of it. He keeps hearing we don't want the pairing. Let's not forget that TxDOT owns the roads. Just because we say we don't want the pairing it does not mean it will not happen. If we go on with this we will spend money and it will not be cheap. Public involvement is imperative. The lack of information here is something we are all responsible for. He supports the petition.
- Councilor Euton stated she echoed what Councilor McConathy said. She believes this is a valid petition. There may be some discrepancies with signatures but she believes there is enough signatures if you threw those out you still would have enough to be brought before Council. Some Councilors wanted to have just the petition on the agenda tonight. She thinks it is a good thing that TxDOT and the County are here speaking because it shows us all the different ramifications and it makes it difficult for us to judge which way you should go. She thinks it is something in the education process that both Council and citizens become better informed coming to the meeting with all these items on the agenda. She supports the validity of the petition.
- Mayor Morales commented that as far as the last petition that went to an election, he does not dispute the way the election came out. There are people that supported him that did not vote because they felt that it was a mute election. He sat in Commissioner's Court when they decided to take this out of Rosenberg's hands. He watched our County Judge and all the Commissioners unanimously vote to move this project forward. Tonight we have heard the attorney, TxDOT and there is nothing we can do. The project is moving forward. He personally doesn't care if it's one way, three ways or four ways, but at the end of the day TxDOT has identified a mobility and safety issue. The County concurs with that and that is why they took it out of Rosenberg's hands. No matter what we do as a Council we cannot stop this project. He has talked to County officials and they are not going to budge. There may be some inconsistencies in the petition, he does not question that but he does not support the petition because he cannot in good conscience spend more money knowing that we can't change it. He has talked to the state representatives and they are not getting involved. This is a TxDOT project and it will move forward. This project was shelved for ten years due to lack of funds and that is why it has come off the shelf. Right now Highway 36 going from Interstate 69 (I69) to Pleak has come off the shelf and funding will be found for that after November and that will be widened. FM 2218 from I69 to Pleak is on the design for TxDOT. A lot of our mobility issues along that freeway and that corridor will be resolved. He has spent many hours in meetings with TxDOT and there will be much better mobility with the expansion of I69.
- In reference to the petition he respects everyone's opinion. He has visited with all of the officials and there is nothing that will stop this project so why do we want to keep spending money.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve a Petition, as received by the City Secretary's office on May 12, 2014, regarding the opposition of the conversion of any portion of Avenue H and Avenue I to one-way streets, the purchase of additional real estate, as well as the transfer, sale, lease, rent, exchange or conveyance in any way to any person, corporation or entity including TxDOT or Fort Bend County, the real property owned by the City of Rosenberg, and located in Rosenberg, TX between Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One Way Pairs Project", without prior approval by Rosenberg voters. **The motion carried by a vote of 5 to 2 as follows: Yeses: Councilor Benton, McConathy, Pena, Euton and Bolf. Noes: Mayor Morales and Councilor Grigar.**

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1793, A RESOLUTION STATING THAT THE CITY OF ROSENBERG OPPOSES THE CONVERTING OF ANY PORTION OF AVENUE H AND AVENUE I TO ONE-WAY STREETS, THE PURCHASE OF ADDITIONAL REAL ESTATE, AS WELL AS THE TRANSFER, SALE, LEASE, RENT, EXCHANGE OR CONVEYANCE IN ANY WAY TO ANY PERSON, CORPORATION OR ENTITY INCLUDING TXDOT OR FORT BEND COUNTY, THE REAL PROPERTY OWNED BY THE CITY OF ROSENBERG, AND LOCATED IN ROSENBERG, TX BETWEEN AVENUE H AND AVENUE I, AND DAMON AND LOUISE STREETS, FOR THE ROADWAY PROJECT KNOWN AS THE "ONE WAY PAIRS PROJECT", WITHOUT PRIOR APPROVAL BY ROSENBERG VOTERS.**

Executive Summary: The City Secretary received a Petition addressed to the City of Rosenberg Mayor, City Council, and Rosenberg City Secretary on Monday, May 12, 2014. The "Initiative" Petition seeks the passage and adoption of a "Initiated Resolution" as follows:

"The City of Rosenberg opposes the converting of any portion of Avenue H and Avenue I to one way streets, the purchase of additional real estate, as well as the transfer, sale, lease, rent, exchange or conveyance in any way to any person, corporation or entity including TXDOT or Fort Bend County, the real property owned by the City of Rosenberg, and located in Rosenberg, TX between Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One Way Pairs Project", without prior approval by Rosenberg voters."

Resolution No. R-1793 is presented for City Council's consideration pursuant to the Initiative Petition. Should Resolution No. R-1793 be approved, the Petition (as included in the previous item) will become affixed to said Resolution as Exhibit "A".

Key discussion points:

- Councilor Benton stated there are no guarantees in anything we do. He spoke to Rick Miller, Phil Stephenson and John Zerwas. Rick Miller was impressed with our efforts. You send a message to our leaders in e-mail, phone, send letters and you come here and speak. He's not convinced we can't stop the project and can't guarantee you will, but if you don't try you won't. He has seen a lot of frivolous spending here and he has tried to resist it. To get an official ballot and official vote on what the people want is worth \$7,000. If it means we have to spend a few more dollars to send a message to stop this, he is for it.
- Councilor McConathy stated the constitution provides for every citizen the right to speak, write, or publish their sentiments about any given topic. It enables us all under Article 1 the freedom of expression. Our City Charter provides for citizens to express their opinions within limits about some of the operations and decision that City Council and City Manager make. In her opinion, there has been only one other topic that has been so divisive and dividing of this City and this is zoning. Even then, when the topic of zoning occurred and went to election three times those who favored it didn't seem to think it was a waste of time or taxpayers' money. The difference today is that by petition the taxpayers are saying we don't mind you spending our taxpayer money for the expression, opinions or feelings about the one way pairs. A lot of the folks she talked to know that Avenue H and Avenue I are state maintained roadways. The City does not have jurisdiction over it. They also know that even if all seven of us unanimously agreed to not convey, sell, etc., the property for the one way pairs project that TxDOT could still condemn the property. Of the two items on the petition, TxDOT could go forward anyway, but that is not the principal. It is the belief of the people that this is not a valid project and they understand what's at stake but they wanted us, TxDOT and anyone that would listen to hear their feelings and opinions just like those in favor of one way pairs got the opportunity to express. She wants to let everyone know we will get past this project eventually like we did with zoning and as stated this happens to be one thing we are on opposite sides of opinion about. There will be other causes that will unite us. Let's be

- respectful of each other's opinion. She would favor the resolution to go forward.
- Councilor Bolf stated when citizens submit a petition to Council that gives them the right to speak. It might not change the project but your vote is never not worth voting. It is always a good thing to have an election no matter how it turns out. City Council will act on what we feel our districts each want. The citizens can take it to the next step but voting is never a wrong no matter which way it goes. A lot of what Mayor Morales said on the TxDOT projects finishing Spur 10, widening of Highway 36 and area on US 59 makes sense and you can see how that will truly help our mobility issues. She supports the resolution.
 - Councilor Grigar stated what Councilor McConathy said was true but hearing the facts and being around this project the last ten years there were alternatives that were presented and they were to put in medians that nobody likes those on FM 2218 today. That was a choice to do that which means buying additional right of way and buying businesses out. No one wants to buy out businesses because nobody wants downtown to be a ghost town from what he is hearing. That is not what we want. Let's start buying properties where it will really cost us more if we want to keep it the way it is and have these meetings in the middle which would impact businesses greatly. All of the distribution building on Highway 90A on the west side of town will add 150 more jobs which means more traffic and where are those people going to live, probably on the south side of US 59 which means they will drive through on Highway 36. We need to be cognizant of the fact that businesses, distribution centers will come in and we have to accommodate them. This traffic will get worse. What other way to do it than convert it to one way and do away with the two ways? Keep in mind that the north/south connections are not being changed. Mobility will be easier. Avenue H and Avenue I are only 375 feet apart. We all want lower taxes so with that we need the growth and businesses for sales tax and to lower our property taxes. With that comes traffic for transport of our goods and services and moving traffic in a safe manner is better for all of us. With this project we will have traffic signals upgraded or new and some eliminated. At 50,000 populations the City will have to take over maintenance of these traffic signals. If we can get them upgraded now it will save money. It will improve ADA ramps and make them compliant to today's standards. With all he is hearing he has to back this one way project. He keeps hearing you don't want it so what is the solution. He has not heard a solution or an alternative. He hopes through all of this the residents can come back together and live in peace and harmony. There is a division right now. Let's get back to living like we used to.
 - Councilor Pena stated it is up to the people so let them vote. We have that opportunity. It will cost money. TxDOT owns the roads and they will probably condemn the property and we will get some money but the thing is the people spoke. You speak with your vote and that is your right. There are people coming here from all nations and they have never had the opportunity we have here in this country. He supports the resolution.
 - Councilor Euton stated she does not like the one way pairs cross over ends. She thinks it will be a big congestion problem. She does not think it will be the fix the one way pair advocates think it will be. She supported the election and she thinks that is a good thing for the citizens to be able to voice their opinion. But, she also believes that it will not stay the same. If it is not going to stay the same what is the alternative? The only other alternative that was proposed that anybody else could see was getting more right of way and medians. That to her is a worse solution to the problems. She does not particularly like one way pairs but it is the lesser of the two evils in her opinion. She believes our attorney that says that if you pass this resolution and we force the condemnation that we will lose because of the previous Council's consent. TxDOT and the County have taken this out of our hands. She must be a realist and try to do what is best for the City as a whole and cut our losses. We tried to fight it and show our opinion but she does not think we can win. She will not support the resolution because she thinks it would not be spending the City's money wisely. She thinks we should all stay involved. The only way to fight City Hall is to be involved before decisions are made. That is why she is here because she was hurt by laws that were passed by Council that she did not like. She challenged everyone to stay involved and help Council to decide with new issues coming up. Let's try to get this together. She knows a lot of people don't like this kind of opinion but that is the way she sees it. She still wants to be friends and she will support them if she feels like it is something the City can win.
 - Mayor Morales stated in visiting with mayors from other cities and Mayor Melder of Conroe told him they had a one way pair project done and there was opposition. They did not take it to a vote, but today they don't know what they would do without it. It really made a difference for mobility. It may not be the perfect solution, but it is the solution. James Koch who was the District TxDOT person that made the presentation at the hearing said TxDOT will not base their decision on just someone just not wanting it. There has to be hard concrete facts. If someone's home is in the way

or there is a business that doesn't want their land taken away that is a different story. He is just repeating what they told him. Like Councilor Euton he thinks everyone should stay involved. Now with the video opportunity you can be more aware of what is going on and be involved and hear future issues. As the attorney said there have been written agreements made over the years over the last decade if challenged we would lose. In all good conscience he does not think we should spend more money with another election or wasting more legal fees going forward when this issue will not change.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Resolution no. R-1793, a Resolution stating that the City of Rosenberg opposes the converting of any portion of Avenue H and Avenue I to one-way streets, the purchase of additional real estate, as well as the transfer, sale, lease, rent, exchange or conveyance in any way to any person, corporation or entity including TxDOT or Fort Bend County, the real property owned by the City of Rosenberg, and located in Rosenberg, TX between Avenue H and Avenue I, and Damon and Louise Streets, for the roadway project known as the "One Way Pairs Project", without prior approval by Rosenberg voters. *The vote carried by a vote of 4 to 3 as follows: Yeses: Councilors Benton, McConathy, Pena and Bolf. Noes: Mayor Morales and Councilors Euton and Grigar.*

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1794, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS AND/OR OTHER APPROPRIATE DOCUMENTS, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, FOR THE APPRAISAL OF CERTAIN REAL PROPERTY GENERALLY ASSOCIATED WITH THE ONE-WAY PAIRS PROJECT AS FOLLOWS: TRACT I - 1.6935 ACRES, LOTS 1, 2, 3, 4, 5, 8, 9, 10, 11, AND 12, BLOCK 1, FAIRVIEW ADDITION/TRACT II - 0.23 ACRES OUT OF THE J.W. MOORE 1/4 LEAGUE; 0.5499 ACRES OUT OF RESTRICTED RESERVE "A" OF KOOL CAR WASH; AND, 0.355 ACRES, LOTS 13 AND 14, BLOCK 1, FAIRVIEW ADDITION.**

Executive Summary: This item has been added to the agenda in order offer City Council an opportunity to authorize action to accurately assess and establish the value of City-owned properties associated with the One-Way Pairs Project. As activity related to these properties continues, it would be beneficial to establish an accurate value for said property in order to have a means of comparison with appraisals that may be presented by Texas Department of Transportation, Fort Bend County, or other entities.

Key discussion points:

- Mayor Morales explained the Resolution is asking for the Council to approve the City to get an appraisal of our own done of that property so we will have something to compare when TxDOT does their appraisal for the City Manager to negotiate with TxDOT.
- George Hyde recommended that this item be tabled until condemnation negotiations are being done. Any appraisal at this time would be a waste of money and a new appraisal would be required.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to table the item until such time condemnation negotiations are being done. The motion carried by a unanimous vote.

7. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 11:04 p.m.


Christine Krahn, Acting City Secretary